## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

:

v. : CRIMINAL NO. 07-cr-00780-JF

:

GARY LESSER :

## **MEMORANDUM**

Fullam, Sr. J. May 3, 2010

The defendant, Gary Lesser, was sentenced on May 22, 2008 to a term of 30 months in prison, to be followed by three years of supervised release. He has now virtually completed his prison sentence, and is eligible for release to a halfway house in June 2010. He recently filed a letter-motion for modification of this sentence. Counsel for the government responded by pointing out that this Court is precluded, by statute, from modifying the previously-imposed sentence. 18 U.S.C. § 3582(c) ("a court may not modify a term of imprisonment once it has been imposed" except upon motion of the Director of the Bureau of Prisons, for some "extraordinary and compelling reasons"). Not to be deterred, Mr. Lesser has now filed a motion for reconsideration of this Court's denial of his motion to modify the sentence.

As I understand it, and I am not sure that I do, Mr.

Lesser takes the position that (1) the Bureau of Prisons

classified him as a minimum security inmate, and (2) he has been serving his sentence in a maximum security prison in Brooklyn,

hence he should not have to serve as long as if he had been properly assigned.

For obvious reasons, this Court has no legal right to modify Mr. Lesser's sentence, or to grant any other relief. The motion for reconsideration will therefore be denied. This Court has no jurisdiction over assignment decisions made by the Bureau of Prisons.

An Order follows.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

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## <u>ORDER</u>

AND NOW, this  $3^{\rm rd}$  day of May 2010, upon consideration of the defendant's motion for reconsideration of this Court's Order of April 15, 2010, and the government's response, IT IS ORDERED:

That the motion is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.